

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of License of:

ALCIDES B. POVEDA,

Petitioner.

OAH No. 2011050300

**DECISION**

This matter was heard before a quorum of the Board of Vocational Nursing and Psychiatric Technicians in Oakland, California, on May 19, 2011. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Nicholas P. Tsukamaki, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General.

Petitioner Alcides Poveda represented himself.

**FACTUAL FINDINGS**

1. Petitioner Alcides B. Poveda was issued vocational nurse license number VN 171194 on March 2, 1995. In a default decision effective February 1, 2007, petitioner's license was revoked based upon the following criminal convictions:

- a) In December 1997, petitioner was convicted of theft.
- b) In April 1999, petitioner was convicted of driving with a blood alcohol level of 0.08 percent or more.
- c) In May 2000, petitioner was convicted of driving under the influence of alcohol and driving with a suspended license.
- d) In May 2002, petitioner was convicted of two counts of driving with a suspended license.

e) In February 2005, petitioner was convicted of a felony count of driving under the influence of alcohol and a misdemeanor count of driving with a suspended license.

f) In April 2005, petitioner was convicted of resisting arrest. Petitioner was intoxicated at the time of this arrest.

2. Petitioner filed this petition for reinstatement of his license on January 26, 2011.

3. Petitioner testified that when he was younger he was hanging around with the wrong friends. He started drinking at around age 27 and got into more and more trouble. He said that it was not until his vocational nurse license was revoked that he realized how much trouble he was in. He then decided to take some programs and get some help. In his petition for reinstatement, petitioner said that he is "a new person with new aspirations" and has learned from his mistakes.

4. In March 2009, petitioner successfully completed the Substance Abuse Treatment and Recovery Program offered through the Contra Costa County Office of Education. In February 2010, petitioner successfully completed 24 addiction studies sessions at the Odessa Day Reporting Center. In November 2010 he completed a 32-hour substance abuse course offered by Western Schools. His sobriety date is April 2008.

5. In his petition for reinstatement, petitioner states that he has been employed since March 2010 at Valley Presbyterian Hospital as a "Nursing Assistant (CNA)." A letter of support he submitted from the director of the RehabCare Program at Valley Presbyterian Hospital states that petitioner "is currently employed as a Certified Nursing Assistant here in the acute rehab unit at Valley Presbyterian Hospital." Petitioner also submitted support letters from five RN's with whom he works at the hospital. Three of those nurses said petitioner works as a Certified Nursing Assistant. However, in the petition for reinstatement, petitioner also reported that his CNA license was "inactive," having expired in April 1997. Asked to explain the discrepancy at the hearing, petitioner said that he works as a nursing assistant, not as a CNA, and that he did not intend to misrepresent his status.

6. Petitioner does not attend a chemical dependency support group. He says this is because he works about 60 hours a week at Valley Presbyterian Hospital which, along with taking care of his family, leaves him no time to attend such a group.

7. Despite the statements described above in Finding 3, petitioner offered no testimony or other evidence to indicate he truly acknowledges and understands the severity of the actions that led to revocation of his license. He offered no evidence to show how he intends to maintain his sobriety. He offered no evidence of any support group that he can rely upon in such an effort.

## LEGAL CONCLUSIONS

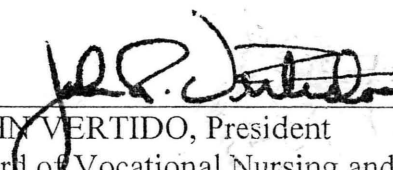
Petitioner has failed to present sufficient evidence of rehabilitation to demonstrate that the public interest would be adequately protected if his license were to be reinstated. Petitioner has a long history of alcohol-related crimes, including driving under the influence. While he has completed some substance abuse programs and has been abstinent for several years, he does not currently attend a chemical dependency group and presented no evidence of a supported plan to maintain his sobriety. Petitioner's stated reason for not attending a chemical dependency group – that he does not have time – is an indication that the need to remain sober may not have a high enough priority in petitioner's life. Petitioner also has a long history of disregarding license requirements, at least as they pertain to driving. Because of that, his reporting in his petition that he works as a CNA – an assertion that was restated in several of his support letters, leading to questions about what petitioner has told his employer and coworkers about the status of his nursing assistant certification – raises questions about his honesty and integrity.

## ORDER

The petition of Alcides B. Poveda for reinstatement of his license is denied.

DATED: June 29, 2011

EFFECTIVE DATE: July 14, 2011

  
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JOHN VERTIDO, President  
Board of Vocational Nursing and Psychiatric  
Technicians  
Department of Consumer Affairs